Supreme Court, U.S.
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No. 06-1048

In the
Supreme Court of the United States

Keith McFarland,
Petitioner,
V.

Bryan Cave LLP, Paul Weil
Marshal & Stevens, Incorporated,
Carl G. Hogan, Jr., Brian J. Hogan
and David Hogan,
Respondents (all).

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

PETITION FOR REHEARING ON PETITION FOR WRIT OF CERTIORARI

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Counsel for Petitioner

PETITION FOR REHEARING ON
PETITION FOR WRIT OF CERTIORARI

On April 2, 2007, this Court denied Plaintiff's Petition for Writ of Certiorari by unsigned order. That petition stemmed from the Seventh Circuit's unpublished order affirming the District Court's dismissal of Plaintiff's suit based on RICO against the law firm of Bryan Cave LLP, its clients, and the appraisal firm of Marshall & Stevens Incorporated. The underlying allegations were that the law firm and its clients sought to defraud the state and federal governments of millions of dollars through a fraudulent tax scheme via estate tax returns.

This Court's alignment with the District Court, and the Circuit Court's unbecoming and unpublished opinions, must fail on the following grounds which are either limited to intervening circumstances or to other substantial grounds not previously presented.

1. The spirit of the protections of the United States Constitution was intended to prevent secret and unpublished dispositions or debates of wrongful acts by powerful people, as has happened here. Special favor has followed the defendants in the case from day one. In the District Court, the trial judge for some reason held "off the record status conference" yet by its own device warned the plaintiff therein of the heightened pleading requirements of fraud. The defendants filed stays of discovery obviously not wanting Plaintiff to obtain copies of the tax returns in question. These stays were remarkably granted and after sitting on motions to dismiss for more than six months the District Court dismissed Plaintiff's cause by an unpublished Rule 53 Order. Chicago favored the defendants even more than East St. Louis. Granting oral argument on the briefs, the Circuit Court then took almost eight months to issue

its unpublished disposition which appeared to be more of a critique of a muffin recipe than that of a multi million dollar tax fraud scheme. This type of aristocrat protectionism was not the cause for which our founders brought forth the Constitution, nor should it be the cause this Court adopts by silent pass.

2. During the proceedings in the Circuit Court, the mediation services of the court were engaged and those proceedings lasted many more weeks than is typical. The Monday morning following the Friday afternoon of the impassible breakdown of settlement negotiations, United States Senator John Danforth's office announced that Mr. Danforth would immediately rejoin practice with the law firm of Bryan Cave LLP. Of all that can be said about the appearance of this, at the very least, is whether or not to give an up or down vote to hear this cause should be made with reference to whether or not Justice Thomas believes he is compelled to refrain from participating in that decision.

CONCLUSION

For the forgoing reasons this petition for rehearing and a writ of certiorari should be granted.

Respectfully submitted,

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April 27, 2007

SUPREME COURT RULE 44.2 CERTIFICATION

Pursuant to Supreme Court Rule 44.2, I hereby certify that the above petition is restricted to grounds limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds previously not presented, and is otherwise presented in good faith and not for delay.

Respectfully Submitted
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April 27, 2007